

## Exempt or confidential report

The following paragraph of [Part 4b Section 10 of the constitution](#) applies in respect of information given in **Appendix 2** to this report and it is therefore exempt from publication. Members and officers are advised not to disclose the contents of Appendix 2:

Information relating to the financial or business affairs of any particular person (including the Authority holding that information)

---

## Cabinet

**Date: 8 December 2014**

Agenda item:

**Subject: Expansion of Perseid School – to approve the proposals for a prescribed alteration to expand, and the award of the related construction works contract**

Lead officer: Yvette Stanley

Lead member: Martin Whelton

Contact officer: Tom Procter

---

**Reason for urgency:** The chair has approved the submission of this report as a matter of urgency as a timely decision is required to ensure statutory school places can be provided for September next year.

---

### Recommendations:

- A. To approve the proposals for a prescribed alteration to expand Perseid School from 112 places plus nursery to 140 places plus nursery from September 2015.
  - B. That the reason for this decision is to provide special educational needs (SEN) school places in the local area and the expansion of Perseid School provides good value for money. Perseid is rated by Ofsted as “Outstanding” and the council’s Head of Education is satisfied that the leadership of the school has the management capacity to continue to raise standards while the school expands.
  - C. To agree to award the contract as detailed in the confidential annex – see Appendix 2.
- 

## 1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 In line with increases in the general population, demand for SEN places has increased and is forecasted to continue into the next decade.
- 1.2 To accommodate the anticipated increase in pupil places, the Council published a statutory proposal to expand Perseid School from 1 September 2015. The school has already provided for some extra demand in the early years of the school and there is now the need to provide further

accommodation to ensure the official capacity of the lower school is increased to 84 pupils, and 140 for the school overall.

- 1.3 The statutory notice period expired on 30 October 2014 and it is now for the council to decide whether to agree to the significant enlargement of Perseid School. As statutory decision maker, the council must also state the reason for the decision.
- 1.4 £1.485 million is approved in the council's Capital Programme for the refurbishment and extension of Perseid School to enable the school to make a permanent increase in the admission number from 112 to 140 places from September 2015.
- 1.5 Following a competitive tender process the capital works contract to enable the expansion can be awarded within the approved budget.

## **2 DETAILS**

- 2.1. The London Borough of Merton has a legal obligation to provide sufficient school places for its area. There is a significant increase in demand for school places in Merton, with more children entering school age, fuelled by a birth rate that has risen by approximately 40% in recent years. The expansion of Perseid Lower is part of an overall strategy to ensure the balance of provision is maintained in light of increased demand in the SEN sector, which was outlined to Children and Young People Overview and Scrutiny Panel on 15 October 2014.
- 2.2. Following the development of a separate primary and secondary campus (Perseid Upper, Middleton Road) the school's capacity was raised to 112, 56 on each campus. To meet rising need a scheme was later implemented which has allowed the school roll to rise to in early years and key stage 1 places (Perseid Lower, Bordesley Road) to meet demand. The intention is to provide sufficient capacity to continue this rise, thus allowing 84 pupils on the lower school site, and 140 overall.
- 2.3. The objective of the proposal is therefore to keep up with demand to provide sufficient high quality local places for pupils diagnosed with severe and complex learning difficulties, thus avoiding the council relying on independent and out of borough provision that can lead to lengthy car trips which adversely impact on children and their families
- 2.4. The process of school expansion is subject to revised statutory guidance, which is outlined in the consultation and legal implications section of this report.

### **CONSTRUCTION SCHEME AND CONTRACT AWARD**

- 2.5. The construction scheme will consist of extensions at the front and side of the school and internal remodelling works. The front extension will consist of a hall extension, kitchen extension, premises manager's office, head teacher's office, main office, and entrance lobby extension. The side extension will consist of two classrooms and associated storage, staffroom and group room. The internal remodelling works include converting the existing staffroom into a craft / group space, storage area, kitchenette,

- hygiene room and associated toilet facilities, Planning, Preparation and Assessment (PPA) room in the Therapy Wing extended and existing Head's office to become a PPA work room. The project will also seek to rationalise the number of temporary mobile buildings currently on the site.
- 2.6. The works are being procured through a two-stage procurement process via the ProContract London tenders portal E-tendering system on a traditional JCT tender. The process included advertising on the London Portal, selecting a shortlist through a pre-qualifying process, and then selecting the contractor on the basis of lowest price. The lead consultants, NPS were appointed via a mini competition from the Richmond Construction Professional Services Framework.
- 2.7. The tender documents for the second stage were issued to five contractors on 22 October 2014 for return on 19 November 2014. The tenders were based on quantified and itemised pricing schedules that were produced from drawings and specifications.
- 2.8. The details of the tenders is in the confidential appendix, but as confirmed in the financial section of this report the recommended contract award is within the allocated budget.

### **3 ALTERNATIVE OPTIONS**

- 3.1. The council has a statutory duty to provide sufficient school places so, given the increase in demand, there is no alternative but to provide or commission more school places. To this end, further increase in special school places for children with additional complex and varied needs is planned in key parts of the borough. The statutory expansion of Perseid School will reduce the dependency on out of borough places for children and young people with SEN and expansion of Perseid Lower School offers the best value for money as outlined below.
- 3.2. Perseid is currently at capacity and therefore any new cases needs to be placed either in out of borough provision or in the independent sector. Merton currently has 98 pupils placed in independent day school and 57 pupils placed in out of borough maintained special school provision. Although out of borough special school fees would be comparable to that of Merton, the cost of transport would increase the further we have to place. As well as similar transport cost, the placement cost for independent provision is on average £8k higher than placing at Perseid (on average £36k compared to £28k). Lower placement cost means better value for money for the DSG while lower transport cost means better value for money for the general fund. It also meets parental preference to provide good quality local school places without lengthy journeys for children.
- 3.3. With regard to the construction scheme, various options were considered following extensive consultation with the school, before the affordable design was agreed.

### **4 CONSULTATION UNDERTAKEN OR PROPOSED**

- 4.4 To comply with the statutory requirements a statutory notice was published on 02 October 2014 in the local newspaper, in the local library, advertised on the school gate and on the council's website. Key stakeholders were also informed including the school governors and all parents of children at the school. As required in the regulations, four weeks were provided for any person to object to or make comments on the proposal. No responses were made to the statutory proposal.
- 4.5 Following the consultation responses officers' views remain that the expansion of Perseid School should proceed to provide SEN local school places that are value for money.

## **5 TIMETABLE**

- 5.1. A planning application for the building works at Perseid School was approved 28 July 2014. By September 2015 enough teaching space will have been built for two additional classes. By October 2015 all remaining accommodation will have been completed including a new office and entrance.
- 5.2. A detailed phased programme has been developed in conjunction with the school and the contractor with an anticipated contract start date of 05 January 2015 and a completion date of 23 October 2015.

## **6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

- 6.1. The Capital Programme 2014-18 contains the following funding for the expansion of Perseid Lower expansion scheme:

£335,670	Budget 2014/15
£1,150,270	Budget 2015/16
-----	
£1,485,940	Total funding

- 6.2. This includes a Targeted Capital grant of £1,056,737 ( including project support costs of £50,000) from the DfE. If the scheme does not progress soon there is a danger that all or part of this funding may.
- 6.3. The approved tender ensure that the scheme will be implemented within this budget .

## **7 LEGAL AND STATUTORY IMPLICATIONS**

- 7.1. The council has a duty under section 14 of the Education Act 1996 to secure that sufficient schools are available for its area. In exercising this function the council must have regard to the need for securing that special educational provision is made for pupils who have special educational needs.
- 7.2. The permanent expansion of a maintained special school to increase the number of pupils by 10% or more than 20 pupils is a prescribed alteration for which statutory proposals must be published and approved under the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013.

- 7.3. The Regulations require that a summary notice of proposals is published in a local paper and on the council's website. Details of the proposals must be published on the council's website and copies provided on request. Copies of the proposals must be sent to the governing body of the school and parents of pupils. Comments on or objections to the proposals can be made within a 4 week period from publication of proposals.
- 7.4. The council is the decision maker for proposals. A decision must be made within 2 months of the end of the representation period for proposals. If no decision is made by the council within this time limit, the proposals must be referred to the Schools Adjudicator. Approval can be conditional subject to certain events specified in the Regulations, including for instance the grant of planning permission.
- 7.5. The council must give reasons for its decision. The decision and the reasons behind it must be published on the council's website and the LA must also notify the school governors, local CE and RC dioceses, parents of pupils at the school and any other body considered appropriate. The local Church of England diocese and the local Roman Catholic diocese have the right to appeal to the Schools Adjudicator against the decision within four weeks of the decision being made.
- 7.6. The council has a duty to implement approved proposals. The DfE register (EduBase) must be updated when proposals have been implemented.
- 7.7. In deciding whether or not to approve proposals, the council should have regard to the statutory guidance, 'School Organisation, Maintained Schools, Guidance for Proposers and Decision Makers' published in January 2014.
- 7.8. The council as decision-maker must be satisfied that appropriate consultation and the representation period required by the Regulations has been undertaken and must consider all view submitted on the proposal.
- 7.9. The Guidance advises that decision-makers should consider the quality and diversity of schools in the area and whether the proposal will meet or affect the aspirations of parents, raise local standards and narrow attainment gaps. In assessing demand for new school places, the decision maker should consider the evidence for any projected increase in pupil population and any new school provision opening in the area. The decision maker should consider whether there are any equal opportunity issues in relation to the proposal and how the proposal will contribute to community cohesion. The proposal should be considered on the basis of how it will support and contribute to the LA's duty to promote the use of sustainable travel and transport to school. The decision-maker should be satisfied that any land, premises or capital required to implement the proposal will be available and that there will be suitable outdoor space for physical education and for pupils to play outside safely.
- 7.10. Specifically in relation to special educational needs provision, the council must consider the SEN Improvement Test:

“ In planning and commissioning SEN provision or considering a proposal for change, LAs should aim for a flexible range of provision and support that can respond to the needs of individual pupils and parental preferences. This is favourable to establishing broad categories of provision according to special educational need or disability. Decision-makers should ensure that proposals:

- take account of parental preferences for particular styles of provision or education settings;
- take account of any relevant local offer for children and young people with SEN and disabilities and the views expressed on it;
- offer a range of provision to respond to the needs of individual children and young people, taking account of collaborative arrangements (including between special and mainstream), extended school and Children’s Centre provision; regional centres (of expertise) and regional and sub-regional provision; out of LA day and residential special provision;
- take full account of educational considerations, in particular the need to ensure a broad and balanced curriculum, within a learning environment where children can be healthy and stay safe;
- support the LA’s strategy for making schools and settings more accessible to disabled children and young people and their scheme for promoting equality of opportunity for disabled people;
- provide access to appropriately trained staff and access to specialist support and advice, so that individual pupils can have the fullest possible opportunities to make progress in their learning and participate in their school and community;
- ensure appropriate provision for 14-19 year-olds; and
- ensure that appropriate full-time education will be available to all displaced pupils. Their statements of special educational needs must be amended and all parental rights must be ensured. Other interested partners, such as the Health Authority should be involved. Pupils should not be placed long-term or permanently in a Pupil Referral Unit (PRU) if a special school place is what they need. “

7.11. As the estimated value of the works is below the EU Threshold, the contract is exempt from the full tendering requirements as set out in the Public Contract Regulations 2006 (as amended). However, the Council’s actions must be in accordance with the EU Treaty principles of transparency, proportionality, equality and non-discrimination.

7.12. In accordance with the Council’s Contract Standing Orders, as the value of the works is more than £100,000 but less than the EU Threshold, CSO 21 applies to the procurement exercise. As set out in the report, the Council has utilised a competitive procurement process therefore satisfying the requirements of CSO 21.

- 7.13. If Cabinet approves the recommendation set out in the report, a written contract will be required to be entered into between the Council and the contractor. The contract shall be in line with the terms and conditions specified in the Invitation to Tender.

## **8. HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

- 8.1 The expansion of Perseid School will contribute to the Authority providing access to a local SEN primary school place for all its residents who want one. The proposal will help to ensure that children with special educational needs will be able to attend suitable local school provision.

## **9.0 CRIME AND DISORDER IMPLICATIONS**

- 9.1 There are no specific crime and disorder implications

## **10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

- 10.1 All capital schemes have a financial risk but the scheme is recommended to be awarded within the budget estimate.
- 10.2 Health and safety is being considered carefully to ensure there will be a clear separation between pupils, teachers and parents and construction works, especially in the context of a special needs school
- 10.3 The project is being managed under project management methodology and a risk log is held and reviewed at project board meetings. Of the main risks highlighted in this decision paper, the financial risk continues to be managed carefully. However a capital scheme will always carry some risk of not meeting the budget
- 10.4 A number of significant health and safety risks are being addressed in the design and build including aspects of the Fire Regulatory Reform order 2005 and in particular means of escape, protected routes and refuge.
- 10.5 All capital projects must include the safe removal and disposal of Asbestos containing materials and strict compliance with the Councils asbestos policy must be maintained during the build.
- 10.6 The Design of rooms and consideration of use must include the elimination of moving and handling hazards as far as is reasonably practicable and equipment must be suitable and sufficient for the needs of users and staff under the Provision and Use of Work Equipment regulations and Lifting Operations and Lifting Equipment regulations 1998. In particular the transfer of users from room to room and session to session must be highlighted in the design of the building.
- 10.7 A contingency is highlighted for environmental hazards and decontamination of land. Ensuring proper disposal of these materials is a local authority duty which must be suitably controlled and documented.
- 10.8 Construction Design and Management regulations stipulate that health and safety must be designed into the build and in particularly where the

maintenance and upkeep of the fabric of the building is concerned. Areas for special consideration include aspects of working at height, confined spaces or maintenance of specialised equipment .

**11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

Appendix 1 – Copy of notice with published notice and prescribed information

Appendix 2 – Construction project contract report

**12 BACKGROUND PAPERS**

12.1 School Places Strategy - Children and Young People Overview and Scrutiny Panel on 15 October 2014